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Attorneys for Defendant
MTGLQ Investors, L.P.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

WILLIAM X. NIETZCHE, solely as trustee
for KRME International Trust, **JULIE A.**
METCALF KINNEY, and **WILLIAM**
KINNEY, JR.,

PLAINTIFFS,

v.

FREEDOM HOME MORTGAGE
CORPORATION (FHMC); MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS (MERS); BENEFICIAL
OREGON INC. (BOI); HSBC HOLDINGS
PLC (HSBC); REGIONAL TRUSTEE
SERVICES CORPORATION (RTSC);
MTGLQ INVESTORS, L.P. (MTGLQ);
RUSHMORE LOAN MANAGEMENT
SERVICES LLC (RLMS); U.S. BANK
NATIONAL ASSOCIATION (USBNA);
CLEAR RECON CORPORATION (CRC);
BARRISTERS SUPPORT SERVICES
(BSS); and URBAN HOUSING
DEVELOPMENT, LLC (UHD),

DEFENDANTS.

Case No. 3:18-cv-01930-SI

MTGLQ INVESTORS, L.P.'S
RESPONSE TO PLAINTIFF'S
MOTION FOR A TEMPORARY
RESTRAINING ORDER AND A
PRELIMINARY INJUNCTION AND
TO PLAINTIFF'S MOTION TO STAY
STATE COURT PROCEEDINGS

By order dated December 4, 2018 (Dkt. No. 23), the Court set plaintiffs' Motion for a Temporary Restraining Order and plaintiffs' Motion to Stay State Court Proceedings (collectively "Plaintiffs' Motions") for hearing on December 10, 2018, and a deadline of December 7, 2018, at noon, for defendants to respond to Plaintiffs' Motions. For the reasons set forth below, defendant MTGLQ Investors, L.P. ("MTGLQ"), without waiver of any objections or defenses to plaintiffs' Complaint, all of which MTGLQ expressly reserves, takes no position regarding Plaintiffs' Motions.

Plaintiffs' Motions seek an order "restraining" and "[e]njoining Defendants from effectuating their purported non-judicial sale of Plaintiff's *[sic]* real property," Dkt. No. 2, p. 2, and staying state court eviction proceedings, Dkt. No. 10, p. 1. MTGLQ is not engaged in any conduct related to any non-judicial (or other) sale of plaintiffs' property and is not a party to any state court proceedings involving plaintiffs. Consistent with this, plaintiffs' Complaint alleges only that MTGLQ received an assignment of a loan and deed of trust involving plaintiffs and their property in 2016 and then that MTGLQ assigned its interest to "U.S. Bank National Association, not in its individual capacity but solely as owner trustee for Loan Acquisition Trust 2017-RPL1." Complaint (Dkt. No. 1), ¶¶ 33, 38-40, 44-5, Exs. E, H, L. Because MTGLQ is not engaged in the conduct plaintiffs seek to enjoin and is not party to the state court proceedings plaintiffs seek to stay, MTGLQ takes no position regarding Plaintiffs' Motions.

DATED this 6th day of December, 2018.

DAVIS WRIGHT TREMAINE LLP

By Kevin H. Kono

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Attorneys for Defendant
MTGLQ Investors, L.P.

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **MTGLQ INVESTORS, L.P.'S RESPONSE TO PLAINTIFF'S MOTION FOR A TEMPORARY RESTRAINING ORDER AND A PRELIMINARY INJUNCTION AND TO PLAINTIFF'S MOTION TO STAY STATE COURT PROCEEDINGS** on:

William X. Nietzsche
Julie A. Metcalf Kinney
William Kinney, Jr.
c/o Julie A. Metcalf Kinney
4406 N. Mississippi
Portland, OR 97217
503-287-6494

Plaintiff

☒ by mailing a copy thereof in a sealed, first-class postage prepaid envelope, addressed to said plaintiff's last-known address and deposited in the U.S. mail at Portland, Oregon on the date set forth below;

☐ by causing a copy thereof to be hand-delivered to said plaintiff's address as shown above on the date set forth below;

☐ by sending a copy thereof via overnight courier in a sealed, prepaid envelope, addressed to said plaintiff's last-known address on the date set forth below;

☐ by emailing a copy thereof to said plaintiff at his/her last-known email address as set forth above; and/or

☐ by emailing a copy thereof in Word format to said plaintiff at his/her last-known email address as set forth above, pursuant to Local Rule 5-11(b).

Dated this 6th day of December, 2018.

DAVIS WRIGHT TREMAINE LLP

By s/ Kevin H. Kono
Kevin H. Kono, OSB #023528
Of Attorneys for Defendant
MTGLQ Investors, L.P.